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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

EDDIE REED,

Defendant and Appellant.

B295146

(Los Angeles County  
Super. Ct. No. BA441970)

APPEAL from an order of the Superior Court of Los Angeles County, David M. Horowitz, Judge. (Retired judge of the L.A. Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Catherine White, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Eddie Reed appeals from an order denying his petition for recall and resentencing. (Pen. Code, § 1170.18, subd. (f).)<sup>1</sup> We affirm.

In 2015, a felony complaint charged Reed with attempted grand theft of an automobile (§§ 664, 487, subd. (d); count 1) and attempted driving or taking a vehicle without consent (§ 664, Veh. Code, § 10851; count 2). The complaint was amended to allege that Reed had a prior robbery conviction (§ 212.5) within the meaning of the Three Strikes law. On March 10, 2016, Reed pleaded guilty to counts 1 and 2 and admitted the allegation. The trial court struck the allegation, suspended imposition of sentence, and placed Reed on three years' formal probation.

Thereafter, in 2018, Reed petitioned for recall and resentencing under section 1170.18. In his petition, Reed asserted that the Kelly Blue Book value of the car he stole was less than \$800. The trial court denied the petition, finding that Reed failed to provide evidence that the property's value was less than \$951 at the time of the offense.

Reed filed this appeal. After review of the record, Reed's court-appointed counsel filed an opening brief which raised no issues, asking this court to conduct an independent review of the record, under *People v. Wende* (1979) 25 Cal.3d 436, 441. By letter dated April 24, 2019, we advised Reed that he had 30 days to submit by brief or letter any contentions or argument he wished this court to consider. Reed did not submit a supplemental brief.

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

Proposition 47 reclassified certain drug and theft-related offenses as misdemeanors and created a mechanism for a person convicted of such a crime when it was classified as a felony to petition the trial court to reduce the felony conviction to a misdemeanor. (§ 1170.18, subd. (f).) Grand theft of property having a value that does not exceed \$950 is now a misdemeanor. (§ 496, subd. (a); see *People v. Page* (2017) 3 Cal.5th 1175, 1189 [act applies to car theft under Veh. Code, § 10851].) A defendant seeking resentencing under section 1170.18 bears the burden of establishing his eligibility for relief. (*Page*, at p. 1189.) Reed did not meet his burden of proof.

We are satisfied that Reed’s attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (*People v. Kelly* (2006) 40 Cal.4th 106, 126; *People v. Wende*, *supra*, 25 Cal.3d at p. 441.)

#### **DISPOSITION**

The order is affirmed.

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DHANIDINA, J.

We concur:

EDMON, P. J.

EGERTON, J.